

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/553,519 Confirmation No. : 1658
Applicants : Georg DUDA et al.
Filed : August 1, 2006
Title : **Method for Simulating Musculoskeletal Strains on a Patient**
Group Art Unit : 3736
Examiner : Sean Patrick DOUGHERTY
Customer No. : 28289

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132

I, Moritz N. Wente, hereby declare as follows:

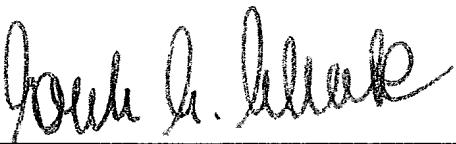
1. I am a citizen and resident of Germany and am Vice President of Clinical Science and Chief Medical Officer of Aesculap AG, a company focusing on products and services for core processes in surgery. In my current employment, I am responsible for the planning, conduction, and analyses of clinical trials in all fields of surgery, in particular orthopedics and trauma surgery. The clinical trials are focused on knee and hip replacement surgery using the prosthesis systems developed and produced by Aesculap AG, as well as computed navigation of hip and knee replacement surgery using the navigation device also produced by Aesculap AG.

2. I am a board-certified surgeon in Germany having extensive international clinical and practical experience. I am a member in over 10 scientific and medical associations and serve as a reviewer for 15 scientific and medical journals. I am the author or co-author of over 75 published peer-reviewed scientific articles relating to various surgical diagnoses, procedures, and treatments. In my final year of medical school as well as during my residency I became familiar with all kinds of trauma and orthopedic surgery and performed and assisted various trauma surgery as well as knee and hip replacement cases. Furthermore, during my clinical work I was also responsible for the pre- and postoperative work-up and treatment of patients undergoing joint replacement surgery.

3. As being considered a person having ordinary skill in the art of surgical interventions and anatomical processes, I hereby attest that the term "musculoskeletal" in the anatomical and surgical arts encompasses bones, muscles, cartilage, tendons, ligaments, joints, and/or connective tissue. I also attest that the term "musculoskeletal strain" in the anatomical and surgical arts encompasses stretching in any of the aforementioned components of the musculoskeletal system that is subject to that strain. Additionally, I attest that it is common and accepted knowledge in the anatomical and surgical arts that any strain to the musculoskeletal system inherently results in injury, weakening, or overexertion of a joint or tissue of the system. Furthermore, I attest that it is common and accepted knowledge in the anatomical and surgical arts that any reference to "strains" in the context of musculoskeletal strains is strictly interpreted to mean "stretching" and does not include the non-medical aspects of exerting effort or use of the aforementioned musculoskeletal system components.

4. As being considered a person having ordinary skill in the art of surgical interventions, I have an understanding of the teachings in U.S. Patent No. 6,205,411 to DiGioia, III et al. After review of the DiGioia patent, I do not view this reference to contain any disclosure with respect to comparing individual musculoskeletal parameters and musculoskeletal reference parameters, which are stored in a database.

5. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Moritz N. Wente, M.D., M. Sc.



Date